

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF GETTYSBURG, ADAMS COUNTY, PENNSYLVANIA, AMENDING CHAPTER 13, LICENSURES, PERMIT AND GENERAL BUSINESS REGULATIONS OF THE CODE OF ORDINANCES OF THE BOROUGH OF GETTYSBURG, RELATIVE TO THE INSERTION OF REGULATIONS RELATIVE TO SEASONAL OUTDOOR DINING AREAS AND CHAPTER 21 STREETS AND SIDEWALKS, TO DELETE REQUIREMENTS RELATIVE TO RESTAURANTS LICENSED BY THE PENNSYLVANIA LIQUOR CONTROL BOARD AND INSERT REFERENCE TO SEASONAL OUTDOOR DINING AREA REGULATIONS.

The Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania, hereby enacts, adopts and ordains this ordinance, amending Chapters 13 and 21 of the Code of Ordinances of the Borough of Gettysburg, as follows:

SECTION 1: A new Part 11 in Chapter 13, Seasonal Outdoor Dining Areas, is inserted as follows:

**Part 11
SEASONAL OUTDOOR DINING AREAS**

§13-1101 Purpose

The purpose of this section is to permit and encourage seasonal outdoor dining areas in Lincoln Square and other commercial areas of the Borough to provide vibrant enhancements to pedestrian-oriented business districts.

This general purpose includes, but is not limited to, the following specific purposes:

- A. Encourage the establishment of outdoor dining areas as part of a pleasant and distinctive dining experience.
- B. Ensure that adequate space will be provided for pedestrian circulation through areas where outdoor dining areas are established and to ensure adequate access to adjoining properties and businesses
- C. Ensure the comfort, safety, and welfare of disabled persons, including those with limited mobility or vision.
- D. Attract business and enhance revenue opportunities.

§13-1102 Definition

As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

SEASONAL OUTDOOR DINING AREA — The extension of the services of an existing restaurant or food service preparing and serving foods for consumption within an existing building, to the extent that food is permitted to be served and consumed at the tables placed on the public sidewalk adjacent to and within the confines of the frontage of that portion of the building in which the restaurant is situated. A seasonal outdoor dining area may contain readily removable tables and chairs, but shall be otherwise unenclosed by fixed walls and open to the air except for umbrellas or other nonpermanent covers provided such covers do not interfere with pedestrian circulation. This definition shall also include the outdoor sales of food by a food establishment.

§13-1103 General Requirements

1. A seasonal outdoor dining area shall be for table service only, restricted to use of sidewalks contiguous to a property line or building line in excess of six (6) feet in width minimum from the building line to street line, and the use for seasonal outdoor dining area shall leave a pedestrian walkway with a minimum of five (5) feet of usable, safe, clear walk area of the sidewalk.
2. No building entrance or egress shall be blocked at any time. The seasonal outdoor dining area shall not be permitted within five (5) feet of the intersection of any street or alley.
3. A seasonal outdoor dining area shall be adjacent to the front property or building line of the principal entrance and shall not extend further than 10 feet from the property line or building line. All tables and seating shall be contiguous to the property line and/or building line.
4. An applicant for a seasonal outdoor dining area that serves alcohol beverages shall obtain the appropriate liquor license from the Pennsylvania Liquor Control Board and comply with all regulations of the Pennsylvania Liquor Control Board.
5. An outdoor dining area shall comply with provisions under Chapter 6, Part 2 of the Borough Code of Ordinance, Conduct, Alcohol Consumption on public property, specifically Section 6-203, Exceptions.
6. No seasonal outdoor dining area shall be permanently located within the sidewalk area by means of raised deck platform, fence, walls or other structures or enclosed by fixed walls, except that seasonal outdoor dining area boundaries may be delineated by the use of

temporary barriers such as balustrades, cordons or railings. Any such temporary barriers shall be easily removed and 3 feet or less in height above the sidewalk. Under no circumstances shall temporary barriers as authorized hereunder be allowed in the identified pedestrian walkway, nor shall a temporary barrier be affixed to the sidewalk or to any permanent structure, except that it may be attached by removable clips or devices approved in advance by the Borough. Any temporary barriers shall be compliant with Americans with Disabilities regulations.

7. No portion of a seasonal outdoor dining area or its facilities, appurtenances, planters, shrubs, tables, chairs or other materials shall be permitted in the pedestrian walkway as defined in subsection A.

8. No signs shall be hung or attached to any portion of the seasonal outdoor dining area, except those signs that are in compliance with provisions of the Chapter 19 of the Borough Code of Ordinances, Signs.

§13-1104 License

Any food establishment intending to provide seasonal outdoor dining table service only is required to apply and obtain a license. An application must be filed with the Borough to secure a license. An annual fee, established by resolution by Borough Council and amended from time to time, shall be paid with the filing of the application. Such application shall be made upon forms provided by the Borough and shall include the following:

- A. Name and address of applicant.
- B. Width of existing public right-of-way sidewalk intended to be used immediately adjacent to property.
- C. Proof of proper licenses for food establishment.
- D. Dimensions of the area of sidewalk in which the seasonal outdoor dining area is proposed.
- E. Diagram to scale of actual intended equipment, tables and chairs for space on sidewalk and proposed occupant load.
- F. The written consent of the property owner, if applicable.
- G. Certificate of insurance demonstrating coverage for intended sidewalk use.
- H. No action shall be taken on any application for a license under this subsection until the application has been completed in its entirety and the application fee, as required by a

schedule of fees established and amended from time to time by resolution of Borough Council, has been paid in full. The schedule of fees shall be kept on file at the Borough Building. There shall be no prorating of fees under this subsection.

I. The applicant shall well and truly save, indemnify, defend and keep harmless the Borough, its officers, employees and agents from and against any and all actions, suits, demands, payments, costs and charges for and by reason of the existence of the seasonal outdoor dining area and all damages to persons or property resulting from or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of such seasonal outdoor dining area or by the acts or omissions of the employees or agents of the applicant in connection with such seasonal outdoor dining area.

J. The applicant shall maintain the seasonal outdoor dining area in accordance with all Borough ordinances and state and federal laws, as well as rules and regulations promulgated and adopted by the Borough which pertain to this use of seasonal outdoor dining area.

K. The applicant shall remove the outdoor portion of the seasonal outdoor dining area immediately after written notice if the Borough determines that the seasonal outdoor dining area is detrimental to the health, safety and general welfare of the Borough or its citizens:

- (1) Due to pedestrian traffic changes, the seasonal outdoor dining area narrows the sidewalk to the extent that pedestrian traffic is impeded;
- (2) The seasonal outdoor dining area interferes with the maintenance or installation of an underground utility structure;
- (3) The seasonal outdoor dining area is no longer being used as such;
- (4) The seasonal outdoor dining area has been temporarily or permanently closed for violation of any Borough, state or federal law and/or regulation; or
- (5) The seasonal outdoor dining area is operated in violation of any ordinance, rule or regulation of the Borough.

L. In the event that the applicant fails to remove the seasonal outdoor dining area immediately after written notice, the Borough may proceed to remove and restore the area and charge the applicant for the cost thereof. Should the seasonal outdoor dining area be removed by the Borough, the applicant shall be entitled to a return of the equipment, furnishings or appurtenances so removed only after the payment of all costs due to the Borough and by requesting the return in writing. The responsibility for removal under the provisions of this subsection shall be the sole responsibility of the applicant without any obligation or cost assessed against the Borough.

§13-1105 Penalties

Any person convicted of violating this ordinance shall, upon conviction thereof, be sentenced to a fine of not more than six hundred (\$600.00) dollars plus any costs incurred by the Borough. Whenever such person shall have been notified by the Borough, through its officials or by service of summons or prosecution, or in any other way, that such violation has been committed, each day that such person shall continue in such violation shall constitute a separate offense.

SECTION 2: Section 21-223.3 is deleted and revised to read as follows:

3. Seasonal Outdoor dining areas shall be licensed and comply with the provisions in Part 11 of Chapter 13 of the Borough Code of Ordinances, Licenses, Permits and General Business Regulations, Seasonal Outdoor Dining Areas:

SECTION 3: All remaining provisions of Chapters 13 and 21 of the Code of Ordinances of the Borough of Gettysburg shall remain in full force and effect unless otherwise repealed by this or any other ordinance. All other ordinances or parts of ordinances of the Borough of Gettysburg inconsistent herewith are hereby repealed.

SECTION 4: This ordinance shall take effect upon enactment.

THIS ORDINANCE DULY ENACTED, ADOPTED AND ORDAINED according to law this ____ day of _____, 2015 at a duly advertised general monthly business meeting of the Borough Council of the Borough of Gettysburg.

BOROUGH OF GETTYSBURG

By: _____
Michael J. Birkner
President of Borough Council

ATTEST:

By: _____
Sara L. Stull, Secretary

APPROVED this _____ day of _____, 2015.

By: _____
William E. Troxell, Mayor

DRAFT